

House Bill 218

By: Representative Benton of the 31st

A BILL TO BE ENTITLED
AN ACT

To amend Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, so as to provide a statement of legislative intent; to define certain terms; to create the State Licensing Board for Fence Contractors and Automated Gate Operator Contractors; to provide for membership, officers, and the appointment of members; to provide for powers and duties; to provide for the licensure of fence contractors and automated gate operator contractors; to provide for qualifications; to provide for warranty and insurance coverage; to provide for disciplinary procedures; to provide for prohibited practices; to provide for applicability; to provide for an effective date; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, is amended by adding a new chapter to read as follows:

"CHAPTER 52

43-52-1.

It is the intent of the General Assembly, in the interest of public health, safety, and welfare, to safeguard homeowners, other property owners, tenants, and the general public against faulty, inadequate, inefficient, and unsafe fence contractors and automated gate operator contractors. The practices of fence contracting and automated gate operator contracting are declared to be businesses or professions affecting the public interest, and this chapter shall be liberally construed so as to accomplish the intent and purposes stated in this Code section.

43-52-2.

As used in this chapter, the term:

(1) 'Automated gate' means any gate which operates electronically and is activated by a switch, whether manual, pressure sensitive, motion sensitive, remote control, or other type. Such term includes the power source and controls to an automated gate.

(2) 'Automated gate operator installer' means a person who is qualified, or required to be qualified, under this chapter and who, for compensation, contracts to, offers to undertake or undertakes to, submits a bid or a proposal to, or personally or by others performs the installation of any automated gate, including, without limitation, the power source and controls to an automated gate operator.

(3) 'Board' means the State Licensing Board for Fence Contractors and Automated Gate Operator Contractors.

(4) 'Business organization' means any partnership, corporation, limited liability entity, business trust, joint venture, sole proprietorship, or other legal entity, including an individual person, doing business or seeking, offering, or contracting to do business as a fence contractor or automated gate operator contractor or otherwise performing or acting as a fence contractor or automated gate operator contractor.

(5) 'Contracting' means the installation of a fence or an automated gate. The offering of contracting services and the negotiation of or bid or proposal for engagement or a contract requiring performance of these services also constitutes contracting.

(6) 'Fence' means any constructed, erected, or buried barrier 100 feet in length or more, other than a structure, designed to separate one area of real estate from another. A fence may be designed for the inclusion, exclusion, or separation of persons or animals or may be purely cosmetic in nature.

(7) 'Fence contractor' means a person who is qualified, or required to be qualified, under this chapter and who, for compensation, contracts to, offers to undertake or undertakes to, submits a bid or a proposal to, or personally or by others performs the construction or the management of the installation or construction for an owner of any fencing, including residential, commercial, or agricultural fencing.

(8) 'Owner of real property' means a person or entity that has a majority ownership interest in the real property to be improved and for whom an improvement is made or who contracts with or engages, directly or through an agent, the contractor who contracts with or engages directly or indirectly through an agent or the contractor to perform the construction work or services.

(9) 'Real property' means the real estate, or an interest therein, upon which a fence or an automated gate is installed.

43-52-3.

(a) There is created the State Licensing Board for Fence Contractors and Automated Gate Operator Contractors consisting of ten members appointed by the Governor for five-year terms, five of whom have extensive work experience in fence construction and five of whom have extensive work experience in automated gate operator installation. The board shall be assigned to the Secretary of State's office for administrative purposes and shall be under the jurisdiction of the division director and shall operate in accordance with and pursuant to the provisions of Chapter 1 of this title, as applicable. The board shall be comprised of two divisions: (1) the fence contractor division, having jurisdiction of and authority over fence contracting, and (2) the automated gate operator contractor division having jurisdiction of and authority over automated gate operator contracting. Five members shall be appointed and serve as members of the fence contractor division of the board and five members shall be appointed and serve as members of the automated gate operator contractor division of the board. Members shall serve until the expiration of their respective terms and until their successors are appointed and qualified. Vacancies occurring during a term shall be filled by appointment of the Governor for the remainder of the unexpired term and such replacement shall meet the requirements and criteria of selection of the person previously holding the vacant position. To be eligible to serve on the fence contractor division of the board, a member shall be and remain actively involved in the fence construction contracting business and shall have been so engaged for a period of not less than five consecutive years before the date of appointment. To be eligible to serve on the automated gate operator contractor division of the board, a member shall be and remain actively involved in the business of installing automated gates and shall have been so engaged for a period of not less than five consecutive years before the date of appointment. The position of any appointive member of the board who, during his or her term of appointment, shall cease to meet the qualifications for original appointment shall be immediately vacated. No member of the board shall be appointed to serve more than two consecutive full terms.

43-52-4.

(a) The initial members of the board shall be appointed no later than July 1, 2009. The board shall meet within 30 days after its appointment at a time and place to be designated by the Governor and shall organize by electing a chairperson and a vice chairperson, each to serve for a one-year term.

(b) The office of chairperson of the board shall be rotated between the two divisions enumerated in this chapter, with the office of vice chairperson to be held by a member of the division other than that in which the chairperson serves, unless the board, through its

rules and regulations, provides otherwise. Any vacancy in the office of chairperson shall be filled by the members for the unexpired term. The person selected to fill the vacancy shall be a member of the same division as the chairperson whose departure has created the vacancy.

(c) The board shall meet at the call of the chairperson or upon the recommendation of a majority of its members. Six members of the board, including at least three members from each of its divisions, shall constitute a quorum for transaction of business by the board.

(d) Each division within the board shall also elect from its membership a chairperson and a vice chairperson who shall each serve for a term of two years. Any vacancy in the office of either the chairperson or vice chairperson shall be filled by one of the members of the respective division for the unexpired term.

(e) Any member-elected chairperson of a division may not serve more than two consecutive full terms of office.

(f) Each division shall carry out its powers and duties as provided for in this chapter with the assistance of the division director and staff of the professional licensing boards division of the Secretary of State's office and the officers and staff of the board. Each division of the board shall operate and transact its business independently of the other division and of the board at large, except as required by this chapter and to the extent of common interests and functions, including staffing and administration. Each division of the board shall have delegated from the board the power and authority to take all appropriate actions in the organization and administration of each respective division and the effectuation and implementation of the licensing and enforcement processes required under this chapter, subject to ultimate oversight and review by the board.

(g) The divisions of the board shall meet at the call of the chairperson of the division.

(h) The board shall not take action on any matter specifically delegated to and under the authority and control of the one of its divisions unless at least four of its members from the affected division are present and participating in such action or decision.

(i) The division director, or his or her designee, shall keep a record of the proceedings of the board and its respective divisions.

43-52-5.

(a) The board shall meet at least twice each year at a time and place determined by the board for the purpose of transacting such business as may properly come before it and of overseeing the operation of its divisions.

(b) The board and its divisions shall have the power to:

(1) Request from the various departments, agencies, and authorities of the state and its political subdivisions and their agencies and authorities such available information as

they may require in their work; and all such departments, agencies, and authorities shall furnish such requested available information to the board and its divisions within a reasonable time;

(2) Establish and adjust fees as necessary within the limits set forth in Chapter 1 of this title;

(3) Adopt official seals for their use and change them at pleasure;

(4) Establish the policies and procedures for regulating fence contracting and automated gate operator contracting and provide interpretation and guidance regarding the implementation and application of such policies and procedures;

(5) Determine qualifications for licensure or certification, including such experience requirements as the board deems necessary;

(6) Promulgate and adopt rules and regulations necessary to carry out this chapter;

(7) Establish and define appropriate categories of fence contractor and automated gate operator contractor licensure based upon financial criteria; and

(8) Allow for inactive status pursuant to Code Section 43-1-22.

(c)(1) The division director is authorized to make, or cause to be made through employees or contract agents of the board, such investigations as he or she or the board may deem necessary or proper for the enforcement of the provisions of this chapter. Any person properly conducting an investigation on behalf of the board shall have access to and may examine any writing, document, or other material relating to the fitness of any licensee or applicant. The division director or his or her appointed representative may issue subpoenas to compel such access upon a determination that reasonable grounds exist for the belief that a violation of this chapter may have taken place.

(2) The results of all investigations initiated by the board shall be reported solely to the board, and the records of such investigations shall be kept for the board by the division director, with the board retaining the right to have access at any time to such records. No part of any such records shall be released, except to the board, for any purpose other than a hearing before the board, nor shall such records be subject to subpoena; provided, however, that the board shall be authorized to release such records to another enforcement agency or lawful licensing authority.

(3) The board shall have the authority to exclude all persons during its deliberations on disciplinary proceedings and to discuss any disciplinary matter in private with a licensee or applicant and the legal counsel of that licensee or applicant.

(d) A person, firm, corporation, association, authority, or other entity shall be immune from civil and criminal liability for reporting or investigating the acts or omissions of a licensee or applicant which violate the provisions of this chapter or any other provision of law relating to a licensee's or applicant's fitness to practice as a licensed fence contractor

168 and automated gate operator contractor or for initiating or conducting proceedings against
169 such licensee or applicant, if such report is made or action is taken in good faith, without
170 fraud or malice.

171 (e) The denial of a license on grounds other than those enumerated in this chapter, the
172 issuance of a private reprimand, the denial of a license by reciprocity, the denial of a
173 request for reinstatement of a revoked license, or the refusal to issue a previously denied
174 license shall not be considered to be a contested case within the meaning of Chapter 13 of
175 Title 50, the 'Georgia Administrative Procedure Act.' Notice and hearing within the
176 meaning of Chapter 13 of Title 50 shall be required, and the applicant or licensee shall be
177 allowed to appear before the appropriate division if he or she so requests.

178 (f) If any licensee or applicant fails to appear at any hearing after reasonable notice, the
179 board may proceed to hear the evidence against such licensee or applicant and take action
180 as if such licensee or applicant had been present. A notice of hearing, initial or
181 recommended decision, or final decision of the board in a disciplinary proceeding shall be
182 served upon the licensee or applicant by certified mail or statutory overnight delivery,
183 return receipt requested, to the last known address of record with the board. If such
184 material is returned marked 'unclaimed' or 'refused' or is otherwise undeliverable and if the
185 licensee or applicant cannot, after diligent effort, be located, the division director shall be
186 deemed to be the agent for service for such licensee or applicant for purposes of this Code
187 section, and service upon the division director shall be deemed to be service upon the
188 licensee or applicant.

189 (g) The voluntary surrender of a license shall have the same effect as a revocation of the
190 license, subject to reinstatement in the discretion of the board.

191 (h) This Code section shall apply equally to all licensees or applicants whether individuals,
192 partners, or members of any other incorporated or unincorporated associations,
193 corporations, business organizations, or other associations of any kind whatsoever.

194 (i) All subpoenas issued pursuant to the authority granted in this chapter shall be subject
195 to the general rules of law with respect to distance, tender of fees and expenses, and
196 protective orders; and any motion made with respect thereto shall be made to and passed
197 on by a judge of the superior court of the county of residence of the person to whom the
198 subpoena is directed.

199 43-52-6.

200 (a) Anyone seeking to be licensed as a fence contractor or as an automated gate operator
201 contractor in this state shall file an application on a form provided by the fence contractor
202 or automated gate operator contractor division, respectively, accompanied by an
203 application fee as provided by the board. Such an application may be submitted either by:

(1) An individual person seeking issuance of a license in his or her own name for purposes of engaging in the profession in his or her own name or doing business as an individual in a trade name as a sole proprietorship; or

(2) An individual person affiliated by ownership or employment with and acting as a qualifying agent for a business organization seeking to engage in the profession in the name of the business organization.

Additionally, all applicants shall submit to and successfully pass an examination prepared for and approved by the appropriate division.

(b) A person shall be eligible for licensure as a fence contractor by the fence contractor division if the person:

(1) Is at least 21 years of age;

(2) Is qualified as to competency, ability, and integrity; and

(3) Has at least two years of proven experience working as or in the employment of a fence contractor or other proven experience deemed substantially similar by the division.

(c) A person shall be eligible for licensure as an automated gate operator contractor by the automated gate operator contractor division if the person:

(1) Is at least 21 years of age;

(2) Is qualified as to competency, ability, and integrity; and

(3) Has at least two years of proven experience working as or in the employment of an automated gate operator contractor or other proven experience deemed substantially similar by the division.

(d) Before being entitled to take an examination or otherwise qualify for issuance of a license, an applicant must show to the satisfaction of the fence contractor division or automated gate operator contractor division from the application and proofs furnished that the applicant is otherwise qualified as to competency, ability, integrity, and financial responsibility. The application shall include a list of all persons, entities, and business organizations that the applicant will be affiliated with as a licensed fence contractor or automated gate operator contractor, whether by way of employment, ownership, serving as an owner or director, partnership, or membership or by serving as a qualifying agent under this chapter. Applicants for a fence contractor license or an automated gate operator contractor license shall provide proof of a minimum net worth in an amount which is specified by the appropriate division. Additionally, all applicants shall provide proof of such general liability insurance as deemed necessary by the appropriate division and of workers' compensation insurance as required by the laws of this state in their name. However, if and to the extent the applicant is submitted as a person seeking to act as a qualifying agent of a particular business organization, such proofs and information shall relate and pertain to such business organization rather than the individual applicant. All

241 applicants shall also provide their social security numbers, if applying as an individual, or
242 the federal taxpayer identification numbers of any business organization for which the
243 applicant is seeking licensure as a qualifying agent. Applicants shall also provide suitable
244 verification of tax payments in a form and manner and for the duration prescribed by the
245 board; provided, however, that where the application is seeking license as a qualifying
246 agent of a business organization, such tax verification and information shall relate and
247 pertain to that business organization. The decision of the appropriate division as to the
248 qualifications of applicants shall, in the absence of fraud, be conclusive. A certificate by
249 the insurer or other appropriate evidence of such coverages shall be maintained with the
250 appropriate division and shall be a condition of renewal. A licensee, on his or her own
251 behalf or where acting as a qualifying agent on behalf of the business organization so
252 qualified, must notify the appropriate division in writing within 30 days after any changes
253 in the information required to be on file with such division, including, but not limited to,
254 the licensee's and, if the licensee is acting as a qualifying agent for any business
255 organization, such business organization's current mailing address, insurance coverages,
256 and affiliated entities.

257 (e) The fence contractor division and the automated gate operator contractor division shall
258 each conduct or cause to be conducted an examination of all qualified applicants.

259 (f) Any otherwise qualified applicant failing this examination may be reexamined at any
260 scheduled examination within one year of the date of original application upon payment
261 of a reexamination fee, in an amount to be set by the board, without need to resubmit an
262 application, unless any information set forth in the previously submitted application is no
263 longer accurate or complete. Anyone requesting to take the examination a third or
264 subsequent time shall wait at least one calendar year after the taking of the last examination
265 and shall submit a new application with the appropriate examination fees.

266 (g) A fence contractor license or automated gate operator contractor license shall be issued
267 to an applicant who successfully completes the respective requirements therefor upon the
268 payment of fees prescribed by the board.

269 (h) Such licenses shall be renewable biennially. Licenses may be renewed subsequent to
270 their expiration within six months of the date of expiration by submitting a renewal as
271 prescribed by the board and by paying a late renewal fee as determined by the board. After
272 six months have elapsed from the date of expiration, such license may only be reinstated
273 in accordance with the rules and regulations of the board.

274 (i) The division director shall give advance notice to each person holding a license under
275 this chapter of the date of the expiration of the certificate of registration and the amount of
276 the fee required for renewal at least two months prior to the expiration date, but the failure

to receive such notice shall not avoid the expiration of any license not renewed in accordance with this Code section.

(j) As a condition of renewal, the appropriate division shall require licensees to complete division approved continuing education of not less than three hours annually.

43-52-7.

(a) A fence contractor and any affiliated entities shall offer a written warranty in connection with each contract to construct, or superintend or manage the construction of a fence where the total value of the work or activity or the compensation to be received by the contractor for such activity or work exceeds \$2,500.00. The fence contractor division shall establish the minimum requirements of such warranty. The parties to the warranty may agree to submit any or all disputes arising under the warranty to arbitration. Such agreement to arbitrate shall be enforceable as provided in Part 1 of Article 1 of Chapter 9 of Title 9, the 'Georgia Arbitration Code.'

(b) An automated gate operator contractor and any affiliated entities shall offer a written warranty in connection with each contract to construct, or superintend or manage the installation of an automated gate where the total value of the work or activity or the compensation to be received by the contractor for such activity or work exceeds \$1,000.00. The automated gate operator contractor division shall establish the minimum requirements of such warranty. The parties to the warranty may agree to submit any or all disputes arising under the warranty to arbitration. Such agreement to arbitrate shall be enforceable as provided in Part 1 of Article 1 of Chapter 9 of Title 9, the 'Georgia Arbitration Code.'

43-52-8.

(a) In addition to the powers and authorities conferred upon the board and its divisions pursuant to Chapter 1 of this title, the fence contractor division and the automated gate operator contractor division shall have the power, respectively, to reprimand any person or licensee, or to suspend, revoke, or refuse to grant, renew, or restore a license to any person or licensee if such person or licensee is found by the appropriate division to have engaged in any fraud or deceit in obtaining a license or otherwise to have engaged in gross negligence, repeated or persistent incompetence, intentional misconduct in the practice of his or her profession, or willful violation of any provisions of this chapter.

(b) For purposes of this Code section, a person or business organization operating on an expired, revoked, lapsed, or suspended license shall be considered unlicensed.

(c) The separate divisions may issue a stop-work order for all unlicensed work falling within their respective jurisdictions upon finding probable cause to believe that work which requires a license under this chapter is being performed by a person without such a current,

valid license. Such an order may be enforced by injunctive relief, cease and desist orders, or other related actions within the power and authority of the board and its respective divisions.

(d) The division having jurisdiction shall investigate and sanction any license holder found to have engaged in fraud, deceit, gross negligence, repeated or persistent incompetence, or intentional misconduct in the practice of fence contracting or automated gate operator contracting; and sanctions shall be assessed against any such fence contractor or automated gate operator contractor licensed under this chapter either individually or as a business organization acting through a qualifying agent. Such charges, unless dismissed without hearing by the division as unfounded, shall be heard and determined by that division in accordance with the provisions of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

(e) The divisions shall each adopt and publish rules and regulations, consistent with the provisions of this chapter, governing the suspension and revocation of licenses.

(f) Each division may reissue a license to any person whose license has been revoked or lift a suspension of a license to such person provided that four or more members of the division vote in favor of such reissuance or lifting for reasons that division deems sufficient.

43-52-9

The issuance of a license by the fence contractor or the automated gate operator contractor division shall be evidence that the person named therein, including both the individual licensee and any business organization for whom such licensee is a qualifying agent, is entitled to all the rights and privileges of a licensed fence contractor or automated gate operator contractor while such license remains unrevoked or unexpired.

43-52-10.

(a) Any person, whether an individual or a business organization, who:

(1) Contracts for or bids upon or engages in the construction of any of the projects or works enumerated in the definitions of fence contractor or automated gate operator contractor in Code Section 43-41-2 without having first complied with the appropriate provisions of this chapter or who shall attempt to practice fence contracting or automated gate operator contracting in this state except as provided for in this chapter;

(2) Falsely represents, advertises, or holds out himself or herself or an affiliated business organization as a fence contractor or automated gate operator contractor licensee duly authorized to perform work under such classification of licensure pursuant to this chapter;

(3) Represents or attempts to use or presents as his or her own the license of another person or, in the case of a business organization, a person other than its qualifying agent;

(4) Gives false or forged evidence of any kind to the board or its divisions or to any member of the board in maintaining a license;

(5) Uses an expired, suspended, or revoked license to continue engaging in fence contracting or automated gate operator contracting; or

(6) Operates a business organization engaged in contracting after 120 days following the termination of its only qualifying agent without designating another primary qualifying agent,

shall be guilty of a misdemeanor and shall, upon conviction, be punished for each such offense by a fine of not less than \$500.00 or imprisonment of three months, or by both a fine and imprisonment in the discretion of the court.

(b) Except as otherwise provided in this Code section, any person who violates any provision of this chapter shall be guilty of a misdemeanor.

43-52-11.

(a) The board shall have the authority to refuse to grant a license to an applicant or to revoke the license of a person licensed by the board or to discipline a person licensed by the board upon a finding by a two-thirds vote of the board that the applicant or licensee has committed any of the following acts:

(1) Obtaining a license by fraud or misrepresentation or otherwise knowingly giving false or forged evidence to the board or its divisions;

(2) Being convicted or found guilty of or entering a plea of guilty or nolo contendere to a criminal act constituting a felony in any jurisdiction which directly relates to the practice of fence contracting or automated gate operator contracting or the ability to practice fence contracting or automated gate operator contracting;

(3) Performing any act which assists a person or entity in the prohibited unlicensed practice of contracting if the licensee knows or has reasonable grounds to know that the person or entity is unlicensed;

(4) Knowingly combining or conspiring with an unlicensed person by allowing his or her license to be used with the intent to evade the provisions of this chapter;

(5) Failing in any material respect to comply with the provisions of this chapter or violating a rule, regulation, or lawful order of the board or its divisions;

(6) Signing a statement with respect to a project or contract falsely indicating that the work is bonded; knowingly and falsely indicating by written statement issued to the owner that payment has been made for all subcontracted work, labor, and materials and for all materials furnished and installed which statement is reasonably relied upon and

actually results in a financial loss to the owner; or falsely indicating that workers' compensation and general liability insurance are provided;

(7) Committing fraud or deceit in the practice of contracting, including falsely advertising, representing, or holding himself or herself or an affiliated business organization out as having a valid and current license under this chapter;

(8) Committing gross negligence, repeated or persistent negligence, or negligence resulting in a significant danger to life or property;

(9) Proceeding on any job without obtaining applicable local building permits and inspections;

(10) Using or attempting to use a license that has expired or has been suspended or revoked; or

(11) Failing to satisfy within a reasonable time the terms of a final civil judgment obtained against the licensee or the business organization qualified by the licensee relating to the practice of the licensee's profession.

(b) The appropriate division may take any one or more of the following actions against any license holder found by the division to have committed any one or more of the acts listed in subsection (a) of this Code section:

(1) Place the license holder on probation or reprimand the license holder;

(2) Revoke a license, including the license of a person as an individual as well as that of a qualifying agent of a business organization together with the interest of the business organization qualified thereby in such license; suspend such a license for a stated period of time not exceeding one year; or deny the issuance or renewal of the license;

(3) Require financial restitution to a consumer for financial harm directly related to a violation of a provision of this chapter;

(4) Impose an administrative fine not to exceed \$5,000.00 for each violation; or

(5) Assess costs associated with the investigation and prosecution.

(c) In determining penalties in any final order of the board or a division, the board or division shall follow the penalty guidelines established by the board's or division's rules and regulations.

(d) The board or a division may assess interest or penalties on all fines imposed under this chapter against any person or business organization which has not paid the imposed fine by the due date established by rule, regulation, or final order.

(e) If the board or a division finds any contractor has violated the provisions of this chapter, the board or division may as a part of its disciplinary action require such contractor to obtain continuing education in the areas of contracting affected by such violation.

43-52-12.

(a) The licensing requirements imposed by this chapter and the sanctions and consequences relating thereto shall not become effective and enforceable until July 1, 2010.

On and after such date, no person, whether an individual or a business organization, shall have the right to engage in the business of fence contracting or automated gate operator contracting without a current, valid fence contracting or automated gate operator contracting license, respectively, issued by the division under this chapter or, in the case of a business organization, unless such business organization shall have a qualifying agent as provided in this chapter holding such a current, valid fence contractor or automated gate operator contracting license on behalf of such organization issued to such qualifying agent as provided in this chapter.

(b) As a matter of public policy, any contract entered into on or after July 1, 2010, for the performance of work for which a fence contractor or automated gate operator contracting license is required by this chapter and not otherwise exempted under this chapter and which is between an owner and a contractor who does not have a valid and current license required for such work in accordance with this chapter shall be unenforceable in law or in equity by the unlicensed contractor. For purposes of this subsection, a person shall be considered unlicensed only if the person was unlicensed on the effective date of the original contract for the work, if stated therein, or, if not stated, the date the last party to the contract executed such contract, if stated therein. If the contract does not establish such a date, the contractor shall be considered unlicensed only if the contractor was unlicensed on the first date upon which the contractor provided labor, services, or materials under the contract. Notwithstanding any other provision of law to the contrary, if a contract is rendered unenforceable under this subsection, no lien or bond claim shall exist in favor of the unlicensed contractor for any labor, services, or materials provided under the contract or any amendment thereto. This subsection shall not affect the rights of parties other than the unlicensed contractor to enforce contract, lien, or bond remedies. This subsection shall not affect the obligations of a surety that has provided a bond on behalf of an unlicensed contractor. It shall not be a defense to any claim on a bond or indemnity agreement that the principal or indemnitor is unlicensed for purposes of this subsection.

(c) Any person who holds a license issued under this chapter may engage in the business of fence contracting or automated gate operator contracting, but only as prescribed by the license, throughout the state and no municipality or county may require any such person licensed under this chapter to comply with any additional licensing requirements imposed by such municipality or county relative to the performance of covered work subject to the licensing requirements under this chapter."

453 **SECTION 2.**

454 This Act shall become effective upon its approval by the Governor or upon its becoming law
455 without such approval.

456 **SECTION 3.**

457 All laws and parts of laws in conflict with this Act are repealed.